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August 25, 2011

Honorable Michael Thibodeau, Senate Chair
Honorable Stacey Fitts, House Chair
Energy, Utilities and Technology Committee
115 State House Station
Augusta, Maine 04333

**Re: Settlement Agreements that Involve Positions to be Taken by Parties
on Issues that May Come Before the Legislature**

Dear Senator Thibodeau and Representative Fitts:

On April 7, 2011, you requested by letter that the Commission provide the Committee with the terms of any existing settlements under which a party has agreed to take or refrain from taking a position on issues that may come before the Legislature (and any contextual information that would be helpful to understand their terms). You also asked the Commission to provide such information to the Committee if any future settlements include such terms.

A search of our records has revealed two stipulations that contain such terms. The first one came to the Committee's attention during the last session: this stipulation approved by Commission Order on June 10, 2010 authorized Central Maine Power (CMP) to construct the Maine Power Reliability Project. Nineteen parties agreed to the Stipulation including Bangor Hydro Electric (Bangor Hydro) and Public Service of New Hampshire (PSNH). *Central Maine Power Company and Public Service of New Hampshire, Request for Certificate of Public Convenience and Necessity for the Maine Power Reliability Program Consisting of the Construction of Approximately 350 Miles of 345 kV and 115 kV Transmission Lines, Order Approving Stipulation, Docket No. 2008-255 (June 10, 2010).*

In Section V(C)(2) of the Stipulation, CMP and Bangor Hydro:

agree to participate in the development and deliberations of the Efficiency Maine Trust's first Triennial Plan. CMP and Bangor Hydro agree to publicly support, and not otherwise oppose, funding levels for electric energy efficiency programs that are adopted by the Trust's Board of Directors in the Triennial

Plan provided that the Trust has made a reasonable demonstration that the funding levels do not exceed the amount “necessary to realize all energy efficiency and demand reduction resources that are cost effective, feasible and reliable” as per 35-A MRSA §10110(5).

An earlier stipulation contained somewhat similar language prior to the creation of the Efficiency Maine Trust. On February 7, 2008, the Commission approved a stipulation that allowed Energy East (CMP’s parent) to be acquired by Iberdrola, S.A. Nine parties agreed to the stipulation (including the OPA, IECG, Friends of the Coast and IEBW). *Central Maine Power Company, Request for Approval of Reorganization Acquisition of Energy East Corporation and Iberdrola, S.A., Order Approving Stipulation*, Docket No. 2007-355 (Feb. 7, 2008).

Paragraph 59 provides:

59. Efficiency Maine: Iberdrola and CMP support energy efficiency and, as such, agree not to oppose increases to amounts collected from CMP’s ratepayers in their distribution rates for the Efficiency Maine program that may be considered by the Legislature for at least the next five years or in the context of 35-A M.R.S.A. § 3211-A (4), including recent changes enacted in the context of P.L. 2007, Chapter 317.

In the same stipulation, Energy East, Maine Natural Gas (MNG) and CMP agreed to the following terms in paragraphs 51 and 52 under the heading of “Competitive Parity for Generation”:

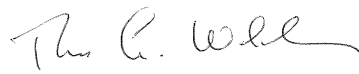
51. **IBERDROLA, Energy East, MNG and CMP** (collectively the “Applicants”) agree that, for a 7-year period beginning on the date of the Commission’s approval of the proposed sale and reorganization, the Applicants and their affiliates will not propose or advocate to change existing Maine law that prohibits the ownership or control of, or financial interest in, generation directly by CMP.
52. To the extent legislation is introduced by others, the Applicants will advocate for “competitive parity” in the context of consideration by the Maine Legislature of any change in law that would (1) have the effect of authorizing Maine T&D utilities to directly own, control or have a financial interest in generation assets, or (2) involve generation ownership, control or financial interest directly by a T&D utility affiliate. Competitive parity would require that if a T&D utility or its affiliate is authorized to directly own, control or have a financial interest in generation on a merchant or “cost of service” basis, that basis will be equivalently available to all potential market participants, such as through RFPs or some similar competitive process conducted by an independent agency such as the Commission.

Further, the Applicants will oppose any proposals or processes that do not allow for such competitive parity.

In addition to searching our files, we also wrote to CMP, Bangor Hydro, Maine Public Service, FairPoint and Unitil asking if they were aware of any other stipulations with such provisions. No utility identified any other stipulation.

If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Th. L. Welch".

Thomas L. Welch, Chairman

On behalf of the Chairman and

Vendean V. Vafiades, Commissioner

David Littell, Commissioner

Maine Public Utilities Commission

cc: Energy, Utilities and Technology Committee Members
Jean Guzzetti, Legislative Analyst and Jon Clark, Esq., OPLA Deputy Director